

OPINION
50-67

February 3, 1950 (OPINION)

FENCES

RE: Building of

Re: Section 17-0105 N.D.R.C. 1943

Your letter of today, re the above section, has come to my desk.

Your question is, as I understand it, whether, when one of two adjoining land owners elects to erect a fence along the line dividing the lands of the adjoining owners, the other must share the expense of building such fence.

This matter is covered by section 17-0105 N.D.R.C. 1943. Clearly, if one of the adjoining "owners chooses to let his land lie open" he may not be compelled to contribute to the expense of erecting a partition fence. Should he thereafter enclose his land, so that the partition fence becomes one side of his enclosure, he may then be compelled to share the original cost and pay his share of the upkeep. See also 36 C.J.S. 646, section 11.

WALLACE E. WARNER

Attorney General